23C

DOCKET FILE COPY ORIGINAL

FCC MAIL SECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DEC 9 2 PM '94

DA 94 - 1327

In the Matter of	)	
	)	
AT&T Communications	)	CC Docket No. 94 - 139
F.C.C. Tariff No. 1,	)	
Transmittal No. 7322	)	

MEMORANDUM OPINION AND ORDER SUSPENDING RATES

Adopted: November 28, 1994; Released: November 28, 1994

By the Chief, Common Carrier Bureau:

1. On August 1, 1994, AT&T Communications (AT&T) filed its Transmittal No. 7322 to increase certain mileage rates for Customer Dialed Calling Card Calls. This service is regulated under the AT&T price cap plan as a Basket 1 service. In this filing, AT&T included adjustments to its price cap indices (PCIs) for each basket of service rates to account for exogenous increases in its costs. No petitions were filed against this transmittal.

2. In its price cap decisions,[1] the Commission replaced cost-plus rate of return regulation with an incentives-based system of regulation that rewards companies that become more productive and efficient, while ensuring that they share productivity and

[1] *See* Policy and Rules Concerning Rates for Dominant Carriers, Report and Order and Second Further Notice, 4 FCC Rcd 2873 (*AT&T Price Cap Order*), *modified on recon.*, 6 FCC Rcd 665 (1991)(*AT&T Price Cap Reconsideration Order*); Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, 5 FCC Rcd 6786 (1990) and Erratum, 5 FCC Rcd 7664 (1990)(*LEC Price Cap Order*), *modified on recon.*, 6 FCC Rcd 2637 (1991)(*LEC Price Cap Reconsideration Order*), *further recon.*, 6 FCC Rcd 4524 (1991)(*ONA Part 69 Order*), *second further recon.*, 7 FCC Rcd 5235 (1992), *aff'd, National Rural Telecom Ass'n v. FCC*, 988 F.2d 174 (D.C. Cir. 1993); Competition in the Interstate Interexchange Marketplace, Report and Order, 6 FCC Rcd 5880 (1991)(*Interexchange Order*)(further streamlining and removing from price cap regulation most of AT&T's business services), *on recon.*, 7 FCC Rcd 2677 (1992).

efficiency gains with their ratepayers. The theory of price caps is to harness the profit-making incentives common to all businesses in a manner that will advance the public interest goals of just, reasonable, and nondiscriminatory rates, as well as a communications system that offers innovative, high quality services.[2]

3. Thus, price caps rewards carriers whose performance exceeds a benchmark measure of efficiency improvements. The benchmark, known as the price cap index or PCI, is adjusted each year based on inflation in the economy (as measured by the Gross National Product Price Index,or GNP-PI), minus a productivity factor.[3] The productivity factor is set to reflect the amount that the historical productivity growth of the telephone industry has exceeded the productivity of the economy as a whole,[4] plus a 0.5 percent Consumer Productivity Dividend.[5] Taken together, these factors established a reasonable target of efficiency growth, based on historical trends. Carriers that are able to generate productivity gains in excess of the target are allowed to generate and keep earnings higher than those experienced under rate of return regulation. Carriers also benefit because price cap regulation provides increased rate flexibility and is simpler to administer. Ratepayers benefit because the price cap mechanism includes components that reflect historical telecommunications industry productivity, and then requires them to out-perform historical trends. Generally, changes in costs are not relevant to price cap regulation. Carriers must control their costs if they are to remain profitable. In this way, ratepayers receive the benefits of improved efficiency and reduced rates.[6]

4. The Commission has identified certain narrowly limited cost changes, termed "exogenous," that can be used to adjust the PCI. Exogenous costs are triggered by administrative, legislative, or judicial actions that are beyond the control of the carriers, and not already reflected in the GNP-PI[7] adjustment in price cap formula.[8] The Commission found that a decision not to recognize these costs in the PCI would either

---

[2] *See AT&T Price Cap Order*, 4 FCC Rcd at 2876-77.

[3] The price cap rules mandate a productivity offset of 3 percent for AT&T.

[4] *AT&T Price Cap Order*, 4 FCC Rcd at 2989-97.

[5] *Id.* at 3001-2.

[6] *AT&T Price Cap Reconsideration Order*, 6 FCC Rcd at 665.

[7] The GNP-PI (Gross National Product Price Index) is a measure of inflation in the general economy.

[8] *LEC Price Cap Order*. 7 FCC Rcd at 6807, *citing AT&T Price Cap Order*, 4 FCC Rcd at 3187.

unjustly punish or reward the carrier by treating these uncontrollable changes as changes in the carrier's level of efficiency.[9]

5. Statement of Financial Accounting Standard 112, "Standards for Employers' Accounting for Postemployment Benefits," (SFAS-112) requires that accounting for expenses for severance pay and other benefits for laid-off (or otherwise separated) workers be made on an accrual, rather than a cash or "pay as you go," basis. SFAS-112 is the forecasted liability applicable to the current work force. Beginning in 1993, SFAS-112 requires companies to take a one-time operating expense adjustment for expected future payments associated with anticipated corporate layoffs ("restructuring" or "downsizing" plans). These payments include salary continuation, supplemental unemployment benefits, severance benefits, disability related benefits (including workers' compensation), job training and counseling, and continuation of benefits such as health care and life insurance coverage.

6. The Commission has required carriers to adopt SFAS-112 for Part 32 accounting.[10] We conclude that, pursuant to the court's holding in *Southwestern Bell Telephone Company v. FCC*,[11] that the SFAS-112 costs may be eligible for exogenous treatment.

7. In its August 1, 1994 filing, AT&T claimed $228.207 million of SFAS-112 costs as exogenous.[12] Of this amount, $227.149 million was attributed to Basket 1, while $.296 million and $.762 million were attributed to Baskets 2 and 3, respectively. Following extensive discussions with Commission staff, AT&T revised its SFAS-112

---

[9] *Id.*

[10] *RAO Letter 22*, 8 FCC Rcd 4111 (Acc. & Aud. Div., Com. Car. Bur. 1993).

[11] 28 F.3d 165, 169-70 (1994).

[12] According to AT&T's Transmittal, its total company 1993 SFAS-112 expenses are $2.1 billion. Of this amount, AT&T concluded that approximately $630 million was attributable to AT&T Communications, which is responsible for AT&T's interstate and intrastate telecommunications services. AT&T calculated the total interstate impact of SFAS-112 for AT&T Communications to be approximately $429 million. Of this $429 million, AT&T attributed approximately $200 million to non-price cap (streamlined) interstate services. AT&T Letter of June 21, 1994, from Judy Arenstein, Government Affairs Vice President to William F. Caton, Acting Secretary, Federal Communications Commission, App. 1, at 5.

exogenous claim downward.[13] AT&T now calculates that SFAS-112 will result in an increase of $201.2 million in AT&T's costs for price capped services rather than the $228.207 million reflected in Transmittal No. 7322. AT&T proposes to allocate this adjustment among the price cap baskets as follows: $200.2 million (Basket 1); $.3 million (Basket 2); and $.7 million (Basket 3).

8. The calculations underlying AT&T's estimate of the SFAS-112 exogenous adjustment are complex and based on numerous assumptions. Although we have reviewed Transmittal 7322 and its supporting documents and have engaged in lengthy discussions with AT&T, several issues remain unresolved. For example, we question several of the underlying assumptions and data used by AT&T to compute the amount of SFAS-112 expense that is not included in the price cap formula adjustment (GNP-PI). We also have outstanding questions concerning, *inter alia*: AT&T's methods of allocating its total SFAS-112 costs between its regulated and non-regulated operations; AT&T's study used to project employee terminations; and its methods for projecting separation benefits expenses. Accordingly, we conclude that an investigation of these claims is warranted.

9. Therefore, pursuant to Section 204(a) of the Communications Act[14] and Section 0.291 of the Commission's rules,[15] we hereby institute an investigation of AT&T's proposed tariff changes based on the PCI adjustments flowing from its implementation of SFAS-112. We suspend the effective date of the transmittal for one day, impose an accounting order, and initiate an investigation. Issues will be designated and a pleading cycle established in a subsequent order.

ORDERING CLAUSES

10. Accordingly, IT IS ORDERED that, pursuant to Section 204(a) of the Communications Act of 1934, 47 U.S.C. § 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the revised rates set forth in AT&T Communications Tariff F.C.C. No. 1, Transmittal No. 7322 ARE SUSPENDED for one day from the current effective date and an investigation of those rates is instituted. AT&T Communications SHALL FILE a supplement reflecting this suspension no later than 5 days from the release of this Order.

---

[13] AT&T Letter of November 18, 1994, from M. F. Del Casino, Administrator-Rates and Tariffs to William F. Caton, Acting Secretary, Federal Communications Commission.

[14] 47 U.S.C. § 204(a).

[15] 47 C.F.R. § 0.291.

11. **IT IS FURTHER ORDERED** that, pursuant to Section 4(i) and 204(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, AT&T Communications SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are the subject of this investigation.

12. IT IS FURTHER ORDERED that AT&T Communications SHALL INCLUDE A STATEMENT in all subsequent transmittals revising rates in Baskets 1, 2 or 3 indicating whether, and to what extent, the price change is predicated upon the exogenous cost claim set forth in Transmittal No. 7322.[16]

FEDERAL COMMUNICATIONS COMMISSION

Kathleen M.H. Wallman
Chief, Common Carrier Bureau

[16] We anticipate that any such transmittals will be suspended for one day, included in this investigation, and made subject to an accounting order.